IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 14.10.2024
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.29665 of 2024
and
W.M.P.Nos.32315 & 32317 of 2024

M/s. Muthoot Fincorp Ltd.,
rep. by its Authorized Signatory,
Joseph Oommen. ...Petitioner

Vs.

The Assistant Commissioner
Arumbakkam, Chennai-II,
Chennai, Tamil Nadu. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records relating to the impugned order dated 14.08.2024 with reference No.ZD330824113990F bearing Registration No.33AACCM1453E2ZZ pertaining to FY 2019-20 issued by the respondent and to quash the same as arbitrary.

For Petitioner : Mr.R.Parthasarathy
For M/s. Thvija .S.

For Respondent : Mr.P.R.Pragadish
Senior Standing Counsel

Order

With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the respondent dated 14.08.2024 pertaining to FY 2019-20 and to quash the same as arbitrary.

3. Mr.R.Parthasarathy, learned counsel for the petitioner would submit that show cause notice was issued in DRC-01 dated 24.05.2024, to which, the petitioner filed reply dated 24.06.2024, thereby, requesting the respondent to provide an opportunity of personal hearing to putfoth their contentions, however, respondent, without acceding to the request made by the petitioner, passed the impugned order, stating as if, opportunity of personal hearing was granted on 24.06.2024.

4. Therefore, the learned counsel would submit that the respondent has passed the impugned order without affording an opportunity of personal hearing to the petitioner, which amounts to gross violation of principles of natural justice and also against the provisions contemplated under Section 75 (4) of the CGST Act, and hence, prayed for setting aside the impugned order.

5. Mr.P.R.Pragadish, the learned Senior Standing Counsel, who takes notice for the respondent by referring to the impugned proceedings stated that personal hearing opportunity was granted to the petitioner on 24.06.2024, and therefore, appropriate orders may be passed.

6. I have given due considerations to the submissions made on either side and perused the materials available on record.

7. In the present case, it is not doubt true that to the show cause notice issued by the respondent daed 24.05.2024, the petitioner filed reply, by uploading the same on 24.06.2024, via. Web-Portal, and in the said reply, the petitioner has requested the respondent for the grant of personal hearing, however, the respondent, instead of granting personal opportunity, passed the impugned order by recording that personal hearing opportunity was granted on 24.06.2024. However, this Court is at loss to understand, as to how, such opportunity could have been granted to the petitioner on 24.06.2024, when the reply itself was filed/uploaded on the very same date.

7.1 Normally, the respondent-Department, on receipt of reply from an assessee/tax payer, is expected to go-through the same thoroughly, in case, the reply found to be satisfactory, would drop the proceedings or in case of the reply being unsatisfactory, would issue a Notice of Personal Hearing, calling upon the petitioner to appear for personal hearing along with relevant documents by providing sufficient time. However, in the present case, no such Notice of Personal Hearing seemed to have been given to the petitioner, whereas, the impugned order proceeds to state, as if, personal hearing opportunity was granted on 24.06.2024, when the reply itself was uploaded on the said date. Therefore, it is clear that the observation made in the impugned order that the petitioner was granted personal hearing opportunity on 24.06.2024 is fallacious. Hence, this Court is inclined to set aside the impugned order.

8. Accordingly, this Court passes the following order:-

i) The impugned order dated 14.08.2024 is set aside and the matter is remanded to the respondent for re-consideration.

ii) The respondent is directed to issue a Notice of Personal hearing by granting sufficient time not less than 14 days and after hearing the petitioner and perusing the documents shall decide the matter in accordance with law.

iii) It is also made clear that, in the event, the petitioner indents to file an additional reply, the same shall be filed within a period of two (2) weeks from the date of receipt of a certified copy of this order, which shall also be considered by the respondent before passing the final order.

9. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

14.10.2024

sd
Index : yes/no
Neutral Citation : yes/no

To
The Assistant Commissioner

Arumbakkam, Chennai-II,
Chennai, Tamil Nadu.

Krishnan Ramasamy,J.,

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W.P.No.29665 of 2024

14.10.2024